

Exhibit No. 8Date 2/11/2015Bill No. SB 277

Proposed **Testimony on Senate Bill 277**
Sponsor: **Senator Roger Webb**
Before: **Senate Public Health, Welfare and Safety Committee**

Title: **A bill for an act entitled: An act prohibiting the Department of Public Health and Human Services from collecting personally identifiable information about persons providing certain Personal Assistance Services."**

My name is Kelly Williams; I am the Administrator of the Senior and Long Term Care Division in the Department of Public Health and Human Services. The Division provides oversight and management of Medicaid services and supports programs targeted at keeping people in need of services in their homes and communities when possible as an alternative to institutional care.

It does this through two specific Medicaid state plan programs, **Personal Assistance Services and Community First Choice Services.**

The goals of the Personal Assistance and Community First Choice programs are to prevent or delay institutionalization by providing medically necessary maintenance or supportive care in the home to Medicaid members whose health problems cause them to be functionally limited in performing activities of daily living.

Montana's program covers home and community-based attendant services and supports to assist members with activities of daily living (ADLs), instrumental activities of daily living (IADLs), health maintenance tasks, and related support services, like transportation assistance to medical appointments. ADL supports include bathing, personal hygiene, dressing, eating and meal preparation, mobility, positioning and transferring, toileting, assistance with exercise routines, and medication assistance. IADL supports include light housekeeping, laundry, yard hazard removal, assistance with personal finances, and community inclusion services. Health maintenance activities include administration of medications, wound care, and bowel and bladder care.

Montana offers either an "agency-based" program where enrolled provider agencies manage the services on behalf of the member, or a "self-direct" program, which allows members to hire, train, manage, schedule and discharge their attendants. Under self-direct programs a provider agency must still act as the employer of record for direct-care workers for the purposes of payroll and federal hiring practices.

Both of these programs are heavily reliant and dependent on Medicaid for their funding.

Approximately 3,500 people received either personal assistance or community first choice services in Montana in state fiscal year 2014. Over ½ of the individuals receiving their services do so under the self-directed model

The Department of Public Health and Human Services adopted a reporting requirement for the self direct personal assistance and community first choice program provider agencies through the Montana Administrative Procedures Act to be effective January 1, 2015. These rules promulgated at ARM 37.40.1127 and 37.40.1018 require that "Effective January 1, 2015, self-directed Personal Assistance and Community First Choice provider agencies must provide quarterly reports for all self-directed personal care attendants employed by the agency, in the format specified by the department. The quarterly report must include the names, addresses, and phone numbers, wages, years of experience in aging and disability services, availability of employee-sponsored health insurance, whether a background check was conducted, and , if so whether it was a finger print criminal background check."

None of this information contains protected health information PHI or is protected under the Health Insurance Portability and Accountability Act (HIPPA), or requires the reporting of Social Security Numbers to the Department. The information that will be gathered through this quarterly reporting will be used to evaluate this work force for quality, stability, and sustainability. The department may decide to create a voluntary online directory that could assist a member in choosing a personal assistant once they see and evaluate this information. The department will also work with provider agencies and consumers, within the framework of the self-directed model, to make decisions on identifying and responding to workforce training needs that may be identified through the reports.

The Department of Public Health and Human Services would urge you **to oppose** this legislation. This Legislation if adopted will invalidate the Administrative Rules that were adopted by the Department, focused at gathering information regarding the delivery of services and the accountability and sustainability of these services and for the management of a Medicaid funded service program. This would limit the Departments ability to gather information in order to appropriately manage the Medicaid funded personal assistance and community first choice state plan services.

Thank you.

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